
Lección 2: *American Courts and Decisions on Racial Segregation*

Introducción (aspectos importantes) (1)

- *Appointment of Supreme Court justice (p. 32)*
- *impeach*: no sólo al presidente (vid. pág. 38)
- *revisión: act, law, statute*
- “tribunal de primera instancia” vs. “Tribunal de Primera Instancia”: *trial court / Court of First Instance*
- “(tribunal de) segunda instancia” vs. “Tribunal de Apelación”: *appellate court / Court of Appeal*

Introducción (aspectos importantes) (2)

- *Common law / statutory law / equity*
- *equity: decree, petitioner, respondent*
- Cuidado con traducción *injunction*: temporal o permanente
- *binding vs. persuasive precedents*

The Supreme Court of the United States

- www.supremecourtus.gov
- importancia:
 - ◆ *case law*
 - ◆ *where the values of the nation are shaped: sexual harassment, abortion, racial / gender / sexual discrimination*
 - ◆ *Due process clause: Miranda vs. Arizona*
 - ◆ *Equal protection: decisions on racial discrimination*
- Más sobre el tema en Unidad 3

1) Dred Scott v. Sandford (1857)

- *Slaves, whether emancipated or not, are not “citizens”*
- *No rights or privileges other than those the Government might grant them*
- *Abolition: 13th Amendment (1865)*

Dred Scott v. Sandford (1)

The question is simply this: Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen? One of which rights is the privilege of suing in a court of the United States in the cases specified in the Constitution....

- is simply this: también “se reduce”
- Can a negro: no olvidar ortotipografía
- negro: *political correctness* frente a anacronismo (*negro, black, Afroamerican*)
- by: considerar la posibilidad de voz activa
- privileges: en algunos textos simplemente “derechos” o “facultades”
- cases: supuestos, circunstancias

Dred Scott v. Sandford (2)

We proceed to examine the case as presented by the pleadings.

The words “people” of the United States and “citizens” are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty and who hold the power and conduct the government through their representatives. They are what we familiarly call the «sovereign people», and every citizen is one of this people, and a constituent member of this sovereignty.

- are synonymous terms: QED. Este también sería un *precedent*.
- our republican institutions: el *republican* no necesariamente alude a lo mismo que hoy
- hold: recuérdese “ostentar” vs. “detentar”
- We familiarly call: “comúnmente se denomina”, “viene en llamarse”
- one of this people: imposible trad. literal; pasar a singular, o modular *one*
- member: en otros casos evitar TP (“socio”); aquí es correcta

The question before us is, whether the class of persons described in the plea compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word “citizens” in the Constitution and can, therefore, claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them...

- ∴: coma claramente incorrecta en castellano.
- class: evitar TP
- We think: posible modulación (“en nuestra opinión”)
- To be included: el castellano no es tan repetitivo.
- in: explicitar (“en el sentido que se le confiere...”)
- On the contrary: no “por el contrario”
- subjugated: evitar TP
- yet: problema gramatical
- subject: aquí no TP, pero en otros casos “objeto” (*the subject of the claim*)

Dred Scott v. Sandford (4)

They had for more than a century before been regarded as beings of an inferior order; and altogether unfit to associate with the white race, either in social or political relations; and so far inferior that they had no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit... This opinion was at that time fixed and universal in the civilised portion of the white race....

- *As beings of*: también “que pertenecían, pertenecientes” coma claramente incorrecta en castellano.
- ∴: cuidar puntuación
- *unfit*: también “indignos”
- TP: *associate*.
- *that*: sólo se entiende pensando que depende del *so far* anterior
- *his*: aclarar referencia

It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion...

- *Axiom*: también “verdad que no necesita demostración” en castellano.
- *moral vs. morals*
- TP: *dispute*
- *of every grade and position in society*: “de toda clase y condición social” vs. “de todas las capas sociales”
- doubting: también “plantearse”
- correctness: transposición a verbo casi obligatoria

Dred Scott v. Sandford (6)

Indeed, when we look to the condition of this race in the several States at the time, it is impossible to believe that these rights and privileges were intended to be extended to them..

- *condition*: TP (“situación”, o en todo caso “condiciones”)
- *at the time*: ¿explicitar?
- *moral vs. morals*
- *is*: no olvidar la tendencia en español a huir del verbo “ser” (“resulta”)

Dred Scott v. Sandford (7)

Upon a full and careful consideration of the subject, the court is of opinion that, upon the facts stated in the plea in abatement, Dred Scott was not a citizen of Missouri within the meaning of the Constitution of the United States, and not entitled as such to sue in its courts; and, consequently, that the Circuit Court had no jurisdiction of the case ...

- *the*: en español el deíctico suele ser “éste”
- *was*: recordar lo dicho sobre el verbo “ser” (“no podía considerarse”, “no tenía la consideración de...”)
- *case*: evitar TP (“asunto”)

Upon the whole, therefore, it is the judgment of this court, that it appears by the record before us that the plaintiff in error is not a citizen of Missouri, in the sense in which that word is used in the Constitution; and that the Circuit Court of the United States, for that reason, had no jurisdiction in the case, and could give no judgement in it.

- *Upon...:* nótese la similitud con el párrafo anterior. Atención a los peligros de los textos repetitivos.
- *of Missouri:* explicitar (“del estado de...”)
- :: puntuación
- *could give no judgement:* “no podía pronunciarse”.

2) *Plessy v. Ferguson* (1896)

- “*Separate but equal*”

Plessy v. Ferguson (1)

A statute which implies merely a legal distinction between the white and colored races –a distinction which is founded in the color of the two races, and which must always exist so long as white men are distinguished from the other race by color – has no tendency to destroy the legal equality of the two races, or reestablish a state of involuntary servitude. Indeed, we do not understand that the Thirteenth Amendment is strenuously relied upon by the plaintiff in error in this connection...

- –a: recordar restricciones tipográficas y omisión de artículo (las aposiciones no lo llevan en español)
- colored: ya no son *negro*.
- legal: evitar TP
- rely upon : en otros contextos “acogerse”.
- in this connection: en este sentido

Plessy v. Ferguson (2)

The object of the [Fourteenth] amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either.

- undoubtedly: evitar “–mente.” recordar restricciones tipográficas y omisión de artículo (las aposiciones no lo llevan en español)
- enforce: “asegurar”. Evítese el “garantizar el cumplimiento” o el “obligar a cumplir” siempre que se pueda. Por ejemplo, para el segundo *enforce* basta con “imponer”.
- abolish: recuérdese *abolish / derogate / repeal*

Plessy v. Ferguson (3)

Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power.

- requiring: mejor aún “que impongan” o “que obliguen”
- their separation: El “su” sería ambiguo. Usar “la” o decir “la separación de...” abolish: recuérdese *abolish / derogate / repeal*
- liable: no confundir con el *liable* de la *civil liability* (distinto de *responsible* y de *accountable*)
- The inferiority: también transponer a verbo.
- competency: ahora *competence*. No confundir con *competition*.
- state: recuérdese la necesidad de evitar ambigüedad
- Falsos amigos: *legislature*, y (aquí) *police*

Plessy v. Ferguson (4)

The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced...

- is connected: evitar TP (“nos lo ofrece”)
- establishment: creación
- their separation: El “su” sería ambiguo. Usar “la” o decir “la separación de...” abolish: recuérdese *abolish / derogate / repeal*
- earnestly: mejor “con mayor determinación”